



Mortgage Loan Program  
Procedural Manual: MBS

February 23, 2011

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# Introduction

## Mission Statement

Minnesota Housing finances and advances housing opportunities for low and moderate income Minnesotans to enhance quality of life and foster strong communities.

## Background

The Minnesota Housing Finance Agency ("Minnesota Housing") was created in 1971 by the Minnesota Legislature.

Minnesota Housing offers programs funded with mortgage revenue bonds ("MRB") to finance the purchase of new and existing homes by low and moderate income Borrowers. Under the Mortgage Backed Securities ("MBS") MRB Program the Master Servicer purchases closed loans originated by private lenders under prescribed program requirements.

Minnesota Housing also provides financial assistance to potential Borrowers who need entry cost assistance to make homeownership possible.

## Procedural Manual

This Procedural Manual sets forth for lenders the terms and conditions under which the Master Servicer will purchase mortgages under Minnesota Housing's MBS MRB and Homeownership Assistance Fund ("HAF") programs.

## Mortgage Revenue Bond Programs

Minnesota Mortgage Program ("MMP")

Low interest First-Time Homebuyer loans offered throughout Minnesota to low and moderate income Borrowers through local participating lenders.

Community Activity Set Aside Program ("CASA")

Low interest First-Time Homebuyer loans available throughout Minnesota under special targeted initiatives with specific participating lenders.

## Entry Cost Assistance Programs

Homeownership Assistance Fund: (See Chapter 5)

- HAF Entry Cost Assistance provides funds to assist Borrowers with down payment and/or closing costs.
- Interest free deferred loans.

Home Homeowner Entry Loan Program (HOME Help): (see separate HOME Help Manual)

- Interest free deferred loans to bridge affordability gaps and promote successful homeownership by providing down payment and closing cost assistance to eligible:
  - Participating CASA initiative Borrowers.

# Chapter 1 – Lender Responsibilities and Warranties

## 1.01 Procedural Manual

This Procedural Manual, including subsequent changes and additions, is a supplement to the Participation Agreement for Minnesota Housing Single Family Mortgage Backed Securities Mortgage Revenue Bond Programs (hereinafter referred to as the Participation Agreement) for Minnesota Housing mortgage programs executed between the Lender, the Master Servicer and Minnesota Housing. It is incorporated into such Participation Agreement by reference and is a part thereof as fully as if set forth in such Participation Agreement at length.

Minnesota Housing reserves the right to:

- Change the program interest rate or rates at any time at its sole discretion;
- Alter or waive any of the requirements herein;
- Impose other or additional requirements;
- Rescind or amend any or all materials effective as of the date of issue unless otherwise stated; and,
- Grant waivers, alterations or make revisions at its sole discretion

## 1.02 Evidence of Misconduct Referred to Attorney General

- Minnesota Housing will refer any evidence of fraud, misrepresentation, or other misconduct in connection with the operation of these programs to the Minnesota Attorney General's office for appropriate legal action.
- If, after a loan is made, a Lender discovers any material misstatements or misuse of the proceeds of the loan by the Borrower or others, the Lender shall promptly report such discovery to Minnesota Housing and the Master Servicer.
- Minnesota Housing, or the Master Servicer, or both, may exercise all remedies available to them under the Participation Agreement or otherwise, both legal and equitable, to recover funds from the Lender and/or the Borrower. This includes repayment of loan funds, together with all applicable administrative costs and other fees or commissions received by the Lender in connection with the loan and reimbursement of all attorney fees, legal expenses, court costs or other expenses incurred by Minnesota Housing in connection with the loan or recovery thereof.

### **1.03 Disclosure and Use of Social Security Number/Minnesota Tax Identification Number**

The Minnesota Revenue Recapture Act (Minnesota Statutes, Sections 270A.01 to 270A.12, as amended) allows the disclosure of the Borrower's Social Security Number or Minnesota Tax Identification Number to the Minnesota Department of Revenue. This could result in the application of state tax refunds to the payment of any delinquent indebtedness of the Borrower to Minnesota Housing.

### **1.04 Unauthorized Compensation**

Lender may receive fees approved in this Procedural Manual. However, Lender shall not receive or demand from realtor/builder/Property Seller/Borrower:

- Kickbacks;
- Commissions; or
- Other compensation.

### **1.05 Minnesota Housing Due Diligence Audit Guidelines and Requirements**

The Lender is required to keep on file a complete copy of documents for each loan originated for purchase by the Master Servicer. A loan file may be requested to be made available to Minnesota Housing at the Lender's Minnesota office during regular business hours or a copy forwarded to Minnesota Housing for review. Loan audits will include, but are not limited to, a minimum of 10% of all loans purchased by the Master Servicer.

Audited loans are reviewed for:

- Mortgage revenue bond law compliance;
- Minnesota Housing program/policy compliance;
- Fraud or misrepresentation on the part of any party involved in the transaction; and
- Trends and/or other indicators that may have an impact on the financial viability of the program in part or in whole.

## **1.06 Termination of Lender Participation**

Minnesota Housing may terminate the participation of any Lender under the Programs at any time and may preclude Lender's future eligibility for reasons including, but not limited to, nonconformance with:

- This Procedural Manual;
- The Participation Agreement;
- The Master Servicer's Lender Guide;
- The Federal Fair Housing Law and/or the Equal Credit Opportunity Act;
- Any federal or state laws or acts that protect the Borrower's rights with regard to obtaining financing for homeownership; and
- Other applicable state and federal laws, rules and regulations.

Upon termination of a Lender's contract the Master Servicer will continue to purchase eligible loans for which a commitment has been issued, until the commitment expiration date.

- Minnesota Housing will not refund participation fees to the Lender.
- Minnesota Housing may, at its option, impose remedies other than termination of the contract for Lender nonperformance.
- Lender may request reinstatement into Minnesota Housing programs. The decision to reinstate a Lender shall be at Minnesota Housing's and/or the Master Servicer's sole discretion.

## **1.07 Covenants**

The Lender agrees to comply with all applicable federal, State, and local laws, ordinances, regulations and orders, including but not limited to the following as then in effect (and any applicable rules, regulations and orders thereunder):

- Title VI of the Civil Rights Act of 1964;
- Title VII of the Civil Rights Act of 1968, as amended by the Housing and Community Development Act of 1974;
- Section 527 of the National Housing Act;
- Equal Credit Opportunity Act;
- Fair Credit Reporting Act;
- Executive Order 11063, Equal Opportunity in Housing, issued by the President of the United States on 11/20/62;
- Federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968);
- Minnesota Human Rights Act – Minnesota Statutes Chapter 363A;
- Data Privacy - Minnesota Statutes Chapter 13 and Section 462A.065;
- Minnesota S.A.F.E. Mortgage Licensing Act of 2010 – Minnesota Statutes Chapters 58 and 58A;
- Americans with Disabilities Act;
- Fair and Accurate Credit Transactions Act;

- National Flood Insurance Act;
- Truth In Lending Act;
- Home Mortgage Disclosure Act
- Anti Predatory Lending Act;
- USA Patriot Act
- Bank Secrecy Act;
- Anti-Money Laundering and Office of Foreign Assets Control Policy;
- Internal Revenue Code of 1986, Section 6050H; and
- Real Estate Settlement and Procedures Act of 1974.

In addition to the above-listed covenants, Lender will have examined:

- The Borrower's federal income tax returns or other appropriate documentation and warrants that the Borrower has not had an ownership interest in a Principal Residence during the three years previous to the date of the mortgage;
- The Property Seller Affidavit and has determined the facts stated therein are true and correct; and
- The Borrower Affidavit and has determined the facts stated therein are true and correct.
- The Lender also agrees that the person who confirms on HDS SF Web Application the Lender Representations and Warranties on behalf of the Lender is fully conversant with the Master Servicer's requirements, Minnesota Housing program requirements, the underlying loan product and insurer/guarantor requirements and has the authority to legally bind the Lender; and Lender has complied with all terms, conditions and requirements of the Participation Agreement and this Procedural Manual and the Master Servicer's Lender Guide unless those terms, conditions and requirements have been specifically waived by Minnesota Housing or the Master Servicer, as applicable, in writing.

## **1.08 Lender Compensation**

Lender is compensated for each loan purchased by the Master Servicer as follows:

- Origination fee collected from the Borrower in accordance with RESPA;
- Service release premium of 1% of the purchase price paid by the Master Servicer.

## **1.09 Annual Renewal Requirements and Fees**

- Annual renewal fee of \$500.
- Minnesota Housing may adjust the annual renewal fees at any time at its discretion.
- Lender must meet the minimum loan volume requirements as specified by Minnesota Housing.

## Chapter 2 - Borrower Eligibility

### 2.01 Borrower

One individual or multiple individuals are eligible to be a Borrower(s) only if such individual or individuals meet the requirements of this Procedural Manual.

### 2.02 Borrower Age

Borrower must be 18 years of age or older or have been declared emancipated by a court having jurisdiction.

### 2.03 Co-Signers

Nonoccupant co-signers are not allowed on first mortgage loans. All Borrowers must occupy the property as their primary residence.

### 2.04 Unauthorized Compensation

Borrower shall not receive kickbacks, rebates, discounts, and/or compensation from any subcontractor, realtor or Property Seller.

### 2.05 Prior Homeownership - Three-Year Requirement

A Borrower may not have had an ownership interest in a Principal Residence at any time during the three year period ending on the date of execution of the mortgage. This requirement applies to any person who will execute the note, and will have a present ownership interest in the property being financed.

- Present ownership interest includes:
  - A fee simple interest;
  - An individual tenancy, joint tenancy, a tenancy in common, or a tenancy by the entirety;
  - The interest of a tenant shareholder in a cooperative;
  - A life estate;
  - A leasehold estate or a leasehold estate subject to a Community Land Trust;
  - A land contract, under which possession and the benefits and burdens of ownership are transferred although legal title is not transferred until some later time;
  - An interest held in trust for the Borrower (whether or not created by the Borrower) that would constitute a present ownership interest if held directly by the Borrower;
  - Vendee interest in a contract for deed; or
  - An ownership interest in a mobile home that is taxed as real estate.

- Interests that do not constitute a present ownership interest include:
  - Remaindermen interest;
  - An ordinary lease with or without an option to purchase;
  - A mere expectancy to inherit an interest in a Principal Residence;
  - The interest that a purchaser of a residence acquires on the execution of an accepted offer to purchase real estate;
  - An interest in other than a Principal Residence during the previous three years (e.g. recreational/seasonal home); or
  - An ownership interest in a mobile home which is not permanently attached to the land and is taxed as Personal Property
  - Pre-existing interest in the subject property.
  
- Required Documentation - Tax Returns:
  - To verify that the Borrower meets the three-year requirement, the Lender must obtain copies of signed federal income tax returns filed by the Borrower for the three years immediately preceding execution of the mortgage documents (loan closing). The Lender should examine the tax returns and the credit report for any evidence that the Borrower may have claimed deductions for property taxes or mortgage interest deductions on a primary residence. The Borrower may also provide the Lender with an affidavit that he/she was not required to file an Income Tax Return during one or all of the preceding 3 years. See Chapter 7 – Documentation Requirements for acceptable alternative formats of federal income tax returns.
  
- Special Documentation for Current Ownership:
  - A Borrower with a current ownership interest in a residence within the most recent three year period must be able to provide evidence (e.g. copy of rental agreement/lease) showing that they have not lived in the dwelling during the most recent three year period.

## **2.06 Principal Residence/Occupancy Requirement**

Borrower must intend to occupy the financed dwelling as a Principal Residence within 60 days after the closing of the loan. A certification of the owner occupancy is to be made by the Borrower in the Borrower Affidavit.

## 2.07 Homebuyer Education

Qualified Homebuyer Education<sup>1</sup> **must be delivered in a classroom setting, be completed prior to closing** and is required for borrowers securing Minnesota Housing financing under the following:

- CASA Program
- Conventional Loans

The above noted requirement will be satisfied when at least one borrower per household provides a certificate of completion.

## 2.08 Credit Score

If the Borrower's credit score (score Lender's underwriter uses to underwrite the loan) is less than 620, the Lender must identify appropriate compensating factors.

## 2.09 Minnesota Housing Program Eligibility Income

Gross annual household income is the gross annual projected household income as of the date of the mortgage application of all persons residing or intending to reside in a property from whatever source derived (with the exception of incidental income from after school employment of persons under 18 years of age) and before taxes or withholdings.

The Minnesota Housing maximum gross household income cannot exceed the amounts listed on Minnesota Housing's Website.

Gross annual projected household income includes:

- Salary, commissions, bonuses, tips, earnings from part-time employment;
- Interest, dividends, gains on sale of securities;
- Annuities, pensions, royalties;
- Veterans Administration compensation, public assistance, social security benefits, unemployment compensation and sick pay;
- Net rental income (including contract-for-deed income), income received from business activities or investments;
- Alimony, child support; and
- Estate or trust income.

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<sup>1</sup> Available courses are listed on the Homeownership Center website at: <http://www.hocmn.org>

Non-borrowing Occupant:

- The income of all occupants must be verified and considered for the purposes of determining whether the Minnesota Housing maximum income limits have been exceeded even if a non-borrowing occupant's income is not considered for credit underwriting purposes.

## **2.10 Loans to Employees and Affiliated Parties**

Lender may make Minnesota Housing loans to their directors, officers, employees and/or their families as well as to builders, realtors and/or their families, and any other principal with whom the Lender does business. Minnesota Housing employees and/or their families are also eligible. The Borrower must meet all eligibility criteria for the program.

## Chapter 3 - Property Eligibility

### 3.01 Eligible Properties

Properties eligible for a loan under the Minnesota Mortgage Program must be located in the State of Minnesota and may include any of the following housing types:

- A single-family detached residence;
- A unit within an eligible Planned Unit Development ("PUD");
- An eligible unit of a condominium;
- A duplex (the borrower must occupy one unit of a duplex property AND the duplex property must have been a residence for at least five years prior to the date of the new mortgage, i.e. not new construction or recently converted from non-residential use);
- A manufactured home permanently affixed to a foundation and taxed as real property, financed with a government insured/guaranteed loan, and that meets the requirements outlined in Section 3.02 of this procedural manual; or,
- A modular home built to state building codes and delivered to the site in modular sections. Modular homes are acceptable for all financing types, subject to loan product guidelines and the approval of the mortgage insurer/guarantor.

### 3.02 Manufactured/Mobile Homes

Homes built to Federal Manufactured Home Construction Safety Standards, administered by HUD. The homes are built on wheeled chassis, which remain a basic structural element.

- Manufactured/Mobile homes are acceptable only for government insured/guaranteed loan products if they meet the following requirements:
  - Foundation: Permanently attached and anchored per manufacturer specifications to a basement, slab or footings to frost line;
  - Wheels, axles and trailer hitches must be removed;
  - Units must be assessed as real estate for property tax purposes; and,
  - Units must meet the requirements of the underlying loan product and the applicable insurer/guarantor.

### 3.03 Ineligible Properties

Properties not eligible for financing are as follows:

- A unit in a Cooperative Corporation or a limited equity Cooperative Corporation;
- Recreational/seasonal home;
- Single-wide mobile/manufactured home even if permanently affixed to a foundation and taxed as real property;
- A property intended to be used as an investment property (except the rental of a second unit in a duplex);
- A newly constructed duplex or a duplex converted from nonresidential use in the past five years;
- A property where 15% or more of the total area of the property is used primarily in a trade or business in a manner which would permit the Borrower to take a deduction for any portion of the costs of the property for expenses incurred in connection with such trade or business use of the property on the Borrower's federal income tax return. For home day care, less than 15% of the property is used regularly and exclusively for the business;
- Manufactured/Mobile homes financed with a conventional loan product; or,
- Newly constructed residences with private septic systems located within Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington and Wright Counties.

### 3.04 Acquisition Cost Limit

Acquisition Cost is the cost of acquiring an eligible property from the Property Seller as a completed residential unit. The Acquisition Cost of a property may not exceed the amounts listed on Minnesota Housing's Website.

Acquisition Cost includes:

- All amounts paid either in cash or in kind, by the Borrower (or by a related party for the benefit of the Borrower) to the Property Seller (or to a related party for the benefit of the Property Seller) as consideration for the property;
- All amounts paid by or on behalf of the Borrower and required to complete or repair a residence whether or not the cost of such completion or repairs is to be financed with the proceeds of a Minnesota Housing loan (which may be agreed upon beyond the contractually provided purchase price);
- All land cost or land value as stated in New Construction Requirements Section 3.09; and
- All special assessments paid or assumed by the Borrower.

Acquisition Cost does not include:

- Usual and reasonable closing or financing costs, or
- Any special assessments paid by the Property Seller.

### **3.05 Appraised Value**

- The appraised value of the subject property may not exceed 125% of the applicable Acquisition Cost Limit.

### **3.06 Personal Property**

Personal Property may not be financed or listed as part of the total Minnesota Housing purchase transaction between the Borrower and Property Seller. Only permanently affixed property (fixtures) are eligible for financing.

### **3.07 Excess Property**

The financing of a property may include only land necessary to maintain the "basic livability" of the dwelling.

- The land being financed may not provide other than incidental income to the borrower;
- The appraiser must state that the subject lot is not greater in size than other residential parcels in the community;
- The land may not comprise more than one parcel or be eligible for legal subdivision unless the appraiser states that the land is commensurate in size with other residential parcels in the community, and the borrower must certify that he or she has no intention of selling or leasing any portion of the land being financed.

### **3.08 Community Land Trusts**

If a property is located in a Community Land Trust ("CLT"), the CLT must meet the following requirements:

- Borrower receives a full disclosure of their rights and obligations under the trust, including future limitations on sale;
- Borrower has access to secondary mortgage market products; and
- The terms and conditions of the CLT are compatible with the National CLT Network model and otherwise satisfactory to Minnesota Housing.

### **3.09 New Construction Requirements**

In addition to the property eligibility requirements already stated in this Procedural Manual, a New Construction property must meet the following requirements:

- A property located within Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington and Wright counties must be serviced by a regional waste water treatment center or by a treatment system owned and operated by a local unit of government;
- The land must be zoned for residential housing;
- The land must not have been annexed within the previous calendar year;
- The cost of land purchased within the 24 months prior to the date on which construction begins must be included in the Acquisition Cost;
- The value of land, as determined by the appraiser, must be used to determine Acquisition Cost if the land was purchased more than 24 months prior to the date on which construction begins or through a non-arms length transaction;
- Any temporary financing (i.e. construction loan, bridge loan, contract for deed) provided prior to the date of the loan closing may not exceed 24 months in term; and
- Land equity (the dollar value of the difference between land value/cost and the total amount the Borrower owes against the land) may be used by a Borrower only as a down payment;
- A Certificate of Occupancy must be issued for the property prior to loan closing; and,
- The Borrower may not act as the General Contractor.

## Chapter 4 – Loan Eligibility

### 4.01 Eligible Loans

The Master Servicer purchases closed loans from Lenders under contract in Minnesota Housing mortgage loan programs. The Lender must warrant that the following criteria have been met for each loan submitted for purchase.

- Eligible loan products include:
  - Conventional loan products underwritten to My Community Mortgage or Home Possible;
    - Fannie Mae Expanded Approval Level 1 loans sold to the Master Servicer may be originated only under the CASA program.
  - FHA;
    - FHA 203K Streamlined loans may be originated under the MMP and/or the CASA Program.
    - FHA 203K Streamlined loans:
      - Maximum repair limit of \$15,000.00; and,
      - Lender must use the Mortgage Loan Program FHA Streamlined 203K Appliance Form if appliances are included in the transaction.
      - Lender must complete US Bank Home Mortgage MRBP Rehabilitation Loan Program Lender Approval Form.
- VA; and,
- RD.
- Housing Choice Voucher loans may be originated only under the CASA Program. All local, state and federal laws and regulations including those relating to affirmative action, fair housing, equal opportunity, truth-in-lending and wrongful discrimination in residential housing have been met;
- Minnesota Housing First-Time Homebuyer, program income and property acquisition requirements have been met; and
- The loan must be originated and closed in, or assigned to, the name of the Lender that is a party to the Participation Agreement and that has gained an Individual Commitment of funds from Minnesota Housing via the HDS SF Web Application.

### 4.02 New Construction Requirements

In addition to the loan eligibility requirements already stated in this Procedural Manual, a New Construction property must meet the following requirements:

- Minnesota Housing funds are not used for temporary initial financing (e.g. interim or construction financing);
- All sweat equity meets the requirements of the applicable loan product and insurer/guarantor, as well as the following:

- Work was performed by the Borrower or members of a Borrower's family, specifically, the Borrower's brothers and sisters (whether by whole or half blood), spouse, or lineal descendants;
- Individuals that perform the work must be qualified to do the specific type of work;
- The maximum dollar amount of the sweat equity does not exceed \$5,000;
- Sweat equity is not a part of Acquisition Cost; and,
- Sweat equity includes only the value of work and not the cost of materials.

### **4.03 Ineligible Loans**

Ineligible loans include but are not limited to loans originated/underwritten as follows:

- Expanded Approval Levels 2 and 3 under Fannie Mae's Desktop Underwriter; and,
- Caution A-Minus Eligible Levels 1, 2, 3, 4 and 5 under Freddie Mac's Loan Prospector.

### **4.04 Subsidy Recapture Disclosure**

Federal law requires that all loans funded by mortgage revenue bonds be subject to subsidy recapture regulations. Subsidy recapture enables the federal government to collect some of the subsidy realized by Borrowers from the interest rate differential resulting from the mortgage revenue bond financing.

Such subsidy is collected through the payment of income taxes to the Internal Revenue Service upon sale or disposition of the Borrower's home. Recapture applies, in varying degrees, only within the first nine years of the loan and is only required from Borrowers whose household income increases significantly during the recapture period and that make a gain on the sale of their home.

To ensure understanding and disclosure of subsidy recapture, Lenders must:

- Explain subsidy recapture to the Borrower at the time of loan application; and
- Require the Borrower to sign the completed Subsidy Recapture Disclosure Statement at closing.

#### **4.05 Interest Rate/Amortization Requirements**

Minnesota Housing requires the loan:

- Have a fixed rate; and
- The loan amount is fully amortized over the term of the loan by level installments of principal and interest payable on the 1st of each month.

#### **4.06 Mortgage Term**

Loans must have a 15-year or 30-year term.

#### **4.07 Loan Mortgage Insurance Coverage**

- Loans with a loan-to-value ratio in excess of 80% must be insured/guaranteed by a mortgage insurer that is acceptable to Minnesota Housing, including:
  - Federal Housing Administration (FHA)
  - Veteran's Administration (VA)
  - Rural Development (RD)
  - Conventional loan with private mortgage insurance (PMI)

#### **4.08 Private Mortgage Insurance Companies – Minimum Requirements**

All private mortgage insurance companies must:

- Be licensed to do business in the State of Minnesota; and
- Maintain a rating of A2 from Moody's Investor Services and AA from Standard and Poors Corporation at the time the mortgage loan is purchased by the Master Servicer, or possess Fannie Mae and Freddie Mac approval.

#### **4.09 Refinancing of an Existing Mortgage**

Minnesota Housing does not allow the refinancing of an existing loan unless the loan is used to replace or refinance temporary initial financing that has an original mortgage term of 24 months or less such as:

- Construction or interim loans; or
- Bridge loans or gap loans.

## **4.10 Settlement/Closing Costs**

Settlement/closing costs, fees or charges the Lender collects from any party in connection with any loan must:

- Comply with Minnesota law;
- Meet all requirements of the insurer/guarantor;
- Not exceed an amount deemed usual or reasonable for the type of transaction being closed (e.g. FHA, VA);
- Not exceed the actual amounts expended for any item (e.g. credit report, appraisal); and
- Ensure the Borrower does not pay more than a pro-rata share of property taxes.

## **4.11 Junior Liens/Community Seconds**

All junior liens/community seconds (including resale restrictions) used in conjunction with a Minnesota Housing loan must comply with the following:

- All requirements of the applicable first mortgage loan product and insurer/guarantor;
- The junior lien with the larger loan amount takes prior position (2nd position) if combined with HAF;
- Junior liens do not reduce Acquisition Cost;
- A Borrower may receive cash back at closing from junior lien proceeds only when the cash back represents a refund of the Borrower's own investment as allowed by the first mortgage product; and
- Minnesota Housing requires full disclosure of any and all junior liens.

## **4.12 Non-Complying Loans**

Minnesota Housing and/or the Master Servicer shall have the right to take one or more of the following actions in the event a Lender submits a mortgage loan that does not, as determined by Minnesota Housing or the Master Servicer, comply with the requirements of this Procedural Manual:

- Adjust the purchase price of the non-complying loan;
- If not already purchased, refuse to purchase the loan;
- If already purchased, require the Lender to repurchase the loan for the purchase price;
- Terminate, suspend, or otherwise limit the Lender's Participation Agreement with Minnesota Housing and/or the Master Servicer;
- Preclude the Lender from future participation in Minnesota Housing programs.

## 4.13 Repurchase of Loans

The Participation Agreement between Minnesota Housing, the Master Servicer and the Lender contains the following repurchase language:

*In the event that the Lender fails to observe or perform any covenant or condition in this Participation Agreement, the Manual, or the Servicer Guide, or in the event that any warranty made by the Lender is determined by Minnesota Housing or the Master Servicer to be untrue, then Minnesota Housing or the Master Servicer or both shall be entitled to all remedies, at law or in equity, including but not limited to: (i) the right to tender Mortgage Loans to the Lender for repurchase as set forth in the Manual, the Servicer Guide and in this Section 12; (ii) the right to rescind acceptance of this Participation Agreement; (iii) the right to seek equitable relief by way of injunction (mandatory or prohibitory) to prevent the breach or threatened breach of any of the provisions of this Participation Agreement, or to enforce the performance thereof; (iv) the right to seek damages, including consequential damages, arising by virtue of Minnesota Housing's sale of its debt securities in reliance on the Lender's performance of the provisions of this Participation Agreement, and (v) the right to terminate this Participation Agreement; provided, however, that such termination shall not diminish the rights of Minnesota Housing or the Master Servicer specified herein or in the Manual or the Servicer Guide. All such remedies shall be cumulative, and the exercise by Minnesota Housing or the Master Servicer of any one or more of them shall not in anyway alter or diminish the right of Minnesota Housing or the Master Servicer to any other remedy. The Lender acknowledges that Minnesota Housing or the Master Servicer may not become aware of a default hereunder by the Lender until a substantial period of time after such default has occurred and any related Mortgage Loans have been submitted to and purchased by the Master Servicer, and the Lender agrees that any such delay shall not be grounds for a claim of laches.*

*The Lender hereby agrees to repurchase any Mortgage Loan sold to the Master Servicer pursuant to this Participation Agreement, at any time during the life of such Mortgage Loan, upon the occurrence of any of the following events:*

- The Master Servicer has evidence of any violations of any rule, regulation, or requirement of Minnesota Housing, the Master Servicer or of any of the following: the Federal Housing Administration ("FHA"), Veterans Administration ("VA"), Rural Housing ("RHS"), the Federal Home Loan Mortgage Corporation ("Freddie Mac"), the Federal National Mortgage Association ("Fannie Mae"), the Government National Mortgage Association ("GNMA") or any other purchaser or guarantor of Mortgage Loans.*
- Any false statement, misstatement, or act or omission of material fact contained in the Mortgage Loan documentation resulting from the Lender's negligence or failure to exercise due diligence as disclosed by actual inspection by the Master Servicer or its representative, or otherwise disclosed.*

- *The Lender fails to obtain FHA insurance, a VA guaranty or Rural Development guaranty or appropriate private mortgage insurance, or if such insurance or guaranty lapses or for any reason becomes unavailable, as a result of any negligent act or omission by the Lender, or the failure by the Lender to obtain such insurance or guaranty within 90 days from the date of purchase.*
- *The Master Servicer is required to repurchase any Mortgage Loan sold or pledged by it to GNMA, Fannie Mae, Freddie Mac or any other purchaser or guarantor, by reason of the Lender's negligence or failure to exercise due diligence or a deficiency in or omission with respect to the documents, instruments, and agreements, pertaining to any Mortgage Loan.*
- *The Master Servicer has evidence that any representation or warranty made by the Lender under this Participation Agreement with respect to any Mortgage Loan is, in whole or in part and with or without knowledge of the Lender, false at the time when made by the Lender or becomes false upon the occurrence of subsequent events.*
- *Any material fraud, misrepresentation or act or omission with respect to the information submitted on a particular Mortgage Loan is determined to exist by the Master Servicer, Minnesota Housing, FHA, VA, RHS, Freddie Mac, Fannie Mae, GNMA or any other purchaser or guarantor of the Mortgage Loan. This includes, but is not limited to, mortgagor or other third party fraud or misrepresentation, and any misrepresentation of the mortgagor's income, funds on deposit or employment, or of the occupancy status of the mortgaged residence.*
- *The Lender's breach of any covenant or obligation to the Master Servicer with respect to the Mortgage Loan under this Participation Agreement, the Master Servicer Guide or the Manual.*
- *The repurchase price for any Mortgage Loan that the Lender is required to repurchase from the Master Servicer shall be an amount equal to the then unpaid principal balance of the Mortgage Loan on the date of repurchase, plus accrued interest, any premium paid to the Lender upon purchase of the Mortgage Loan, and direct expenses (including attorney's fees) incurred by the Master Servicer for any actions taken by it concerning, as a result of, or in connection with, any of the events or circumstances set forth herein as cause for repurchase. The Master Servicer's exercise of its right to have the Lender repurchase any Mortgage Loan hereunder, shall be in addition to, and not in lieu of, any other rights or remedies which the Master Servicer may have against the Lender hereunder or applicable law.*

The First Supplement to the Participation Agreement relating to Affordable Advantage Loans contains additional provisions relating to the obligation of the Lender to repurchase such loans.

#### **4.14 Indemnification**

*The Lender shall protect, indemnify, and hold harmless the Master Servicer and Minnesota Housing and their respective members, officers, employees and agents (the "Indemnified Parties") from, and in respect of, any and all losses, liabilities, reasonable costs, and expenses (including attorneys' fees) that may be incurred by the Indemnified Parties with respect to, or proximately resulting from, any breach of, any representation, warranty, or covenant of the Lender under the Participation Agreement. The Servicer and Minnesota Housing shall be entitled to rely upon the Lender as assembler and preparer of all Mortgage Loan documents and are under no duty whatsoever to investigate or confirm any of the information set forth therein as to its honesty, accuracy, or completeness. The Lender hereby further agrees to indemnify and hold harmless the Indemnified Parties from any claim, loss or other damage, including reasonable attorneys' fees, resulting in whole or in part from any inaccuracy or incompleteness in the Mortgage Loan documents or any act or omission by the Lender, its agents and employees, including but not limited to failure to comply with applicable state, federal and local statutes or regulations. To the extent the Lender, its agents or employees, commits an actual wrong, or makes some error or omission in the preparation of any Mortgage Loan or its documents and as a result thereof, and based thereon, any Indemnified Party commits an act or omission for which it becomes liable to the Mortgagor(s) or any third party and/or a claim or cause of action is instituted against an Indemnified Party, the Lender hereby further agrees to indemnify and hold harmless the Indemnified Parties from any such loss or damage, including reasonable attorneys' fees, resulting therefrom.*

#### **4.15 Refund of Service Release Premiums**

- If any Mortgage Loan is prepaid in full within three months following the date of purchase by the Master Servicer, from the Lender, the Lender shall refund to the Master Servicer all service release premiums received from the Master Servicer with respect to that Mortgage Loan.*
- If any Mortgage Loan, underwritten by the Lender, becomes delinquent for any of the first three scheduled monthly payments due the Master Servicer, and is not brought current by the borrower within 90 days of delinquency, the Lender shall refund to the Master Servicer all service release premiums received from the Master Servicer with respect to that Mortgage Loan plus an additional fee of \$1,000 on Conventional loans and \$3,000 on Government loans (FHA, VA and RD).*

## Chapter 5 – Special Assistance Programs

### 5.01 Community Activity Set Aside Program

CASA loans must meet the loan requirements of the Minnesota Mortgage Program and the requirements of the CASA Initiative.

All CASA borrowers must provide proof of completion of Qualified Homebuyer Education<sup>2</sup>.

In addition to the loan terms available under MMP, CASA also allows:

- Expanded Approval® Loans (Levels I per Fannie Mae product guidelines);
- Housing Choice Voucher loans.

Lender is responsible to determine that an individual Borrower meets the CASA Initiative's requirements.

### 5.02 Housing Choice Voucher (HCV) Homeownership Program

The HCV Homeownership Program allows HUD Section 8 recipients to use their voucher subsidy to meet monthly homeownership expenses.

Minnesota Housing allows the combination of the HCV subsidy with loans sold to the Master Servicer only under the CASA program.

Lenders originating loans with a HCV subsidy must service the loans prior to purchase by the Master Servicer in compliance with this Procedural Manual. This involves collecting a portion of the monthly payment from the borrower and a portion of the monthly payment from the public housing authority. HCV recipients are eligible to receive HAF ECA.

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<sup>2</sup> This requirement is satisfied when at least one borrower in the household submits a certificate of completion

### 5.03 Homeownership Assistance Fund

HAF is available only in conjunction with a first mortgage loan purchased by the Master Servicer under a Minnesota Housing Mortgage Revenue Bond program.

The HAF program provides assistance up to a maximum of \$3,000 for MMP Borrowers and \$4,500 for CASA Borrowers in an interest free, deferred loan.

Entry Cost Assistance (ECA) is available in increments of \$1,000 up to the Program maximum to pay for eligible entry cost expenses, including down payment, and other customary and normal buyer closing costs.

### 5.04 HAF Borrower Eligibility

The Borrower must meet at least one of the following criteria:

- Be purchasing a home in an MMP Spotlight Area (see MMP Spotlight Areas in the Resources section of the Minnesota Housing Mortgage Loan Program Forms webpage). A home in an MMP Spotlight area is located in either:
  - A Low-Income Census Tract; or,
  - A High Need Zip Code;
- Earn less than 60% of area median income tiered by household size (see HAF Income Limits on Minnesota Housing's website); or,
- The first mortgage is sold to the Master Servicer under the CASA program.

#### Minimum Credit Score:

- If the Borrower(s) have a credit score, the credit score the Lender's underwriter uses to underwrite the loan must be at least 620;
- If no Borrower(s) have credit scores, alternative credit suggesting a prudent underwriting risk must be developed; and,
- If one Borrower has a credit score of at least 620 but the other Borrower(s) does not have a credit score, the question of whether alternative credit must be developed for the Borrower(s) without a score is deferred to the underlying loan product guidelines.

Cash Investment: A minimum cash investment of \$1,000, including prepaids, is required. The cash investment must come from the Borrower's assets and may not be a gift, grant, or sweat equity contribution.

Asset Limit: A Borrower's liquid assets after closing are limited to the greater of six months principal, interest, taxes, and insurance or \$5,000.

## 5.05 HAF Loan Requirements

- A Borrower may receive cash back at closing only when the cash back represents a refund of the Borrower's investment (reflected on HUD-1 as paid outside of closing) and the first mortgage product and insurer/guarantor allows the replenishment/reimbursement/refund.
- HAF loans may be combined only with Minnesota Housing First-Time Homebuyer loan products with a 30-year term.
- HAF is a deferred payment loan. The Borrower must repay the loan in full when, among other things:
  - The maturity date of the HAF loan is reached;
  - The property is sold or transferred;
  - The first mortgage is paid in full, upon a refinancing or otherwise;
  - The first mortgage is in default or becomes or is declared to be due and payable in full, or
  - At such time as the property is no longer owner-occupied by the Borrower.
- HAF is a junior lien.
- A HAF loan cannot be assumed or subordinated.

## 5.06 HAF Lender Warranties

In addition to the warranties stated in Section 1.07 Lender warrants the following:

- Borrower's cash investment is paid from Borrower's out of pocket funds;
- Borrower liquid asset reserves after closing are not more than the greater of 6 months' PITI or \$5,000; and
- HAF monies received by Borrower are being applied to the transaction and verified through the HUD-1 closing statement.

## Chapter 6 – Commitment/Disbursement

Minnesota Housing funds a variety of programs and initiatives and reserves the right to establish limits for any program and/or initiative during any business day as listed:

- A maximum dollar amount of money a Lender may commit; or
- A maximum number of Individual Commitments a Lender may commit.

Lender may commit funds on a first-come, first-served basis. Fund balances and current interest rates are available on the Minnesota Housing website or by logging into the HDS SF Web Application.

Individual Commitments are to be considered as “forward commitments” by the Lender. It is expected that the loan will be submitted to gain a Purchase Approval status via the HDS SF Web Application.

### 6.01 Requesting a Commitment

Once the Lender has determined that a Borrower meets the loan requirements, an Individual Commitment of funds is requested through Minnesota Housing’s HDS SF Web Application.

Requests for a Commitment that meets the eligibility requirements in the Procedural Manual will be authorized electronically.

The Commitment period extends from the date of electronic commitment until the date of the arrival of the closed loan package at the Master Servicer’s place of business.

Commitments for existing properties with no fees are available to participating Lenders for 75 days. At day 76 and then again at day 106 an extension fee of ½ of 1% will be discounted at loan purchase. Lender may not charge the Borrower for the extension fees. All Commitments will be automatically cancelled at day 136. (See chart below.)

Commitments for New Construction properties with no fees are available to participating Lenders for 115 days. At day 116 and then again at day 146 an extension fee of ½ of 1% will be discounted at loan purchase. Lender may not charge the Borrower for the extension fees. All Commitments will be automatically cancelled at day 176. (See chart below).

| Construction Type     | Free Commitment Period | First Extension Terms                | Second Extension Terms               | Cancellation |
|-----------------------|------------------------|--------------------------------------|--------------------------------------|--------------|
| Existing Construction | 75 days                | At day 76 a fee of .50% is assessed  | At day 106 a fee of .50% is assessed | Day 136      |
| New Construction      | 115 days               | At day 116 a fee of .50% is assessed | At day 146 a fee of .50 is assessed  | Day 176      |

Loans must meet eligibility requirements and gain a status of Purchase Approval via the HDS SF Web Application within the timeframes specified above.

## 6.02 Modifying a Commitment

- Any change to a Commitment must meet eligibility requirements and must be submitted via the HDS SF Web Application to qualify.
- Any qualifying Commitment change will not alter the commitment period of the original commitment.
- A change of Borrower or property on the Commitment will not be allowed.
- An increase in Loan Amount will be allowed if funds are available.

## 6.03 Canceling a Commitment

Minnesota Housing requires Lender to cancel any Commitment that will not be used for the specified loan. Any Lender that cancels an existing commitment may not re-commit the same loan within the first 90 days following cancellation of the commitment.

## 6.04 Transfer of Individual Commitments

Lender may not transfer commitments to another Lender. Minnesota Housing may, in its discretion, transfer a Commitment to another Lender under the following conditions:

- Lender requests in writing a transfer of the Commitment to different Lender and documents the reason; and
- Original Lender must transfer and/or assign case documents to the new Lender.

## 6.05 Duplicate Borrower Commitments

Lender may not cancel an Individual Commitment and subsequently recommit funds for the same Borrower/property in order to obtain more favorable Commitment terms.

## **6.06 Purchase Approval**

Purchase Approval obtained from the HDS SF Web Application confirms on a preliminary basis that a loan meets bond compliance and Agency guidelines, subject to Quality Control audit review or other investigation.

## **6.07 Hold Fees (Incomplete Purchase Packages)**

Minnesota Housing will allow a three-week period with no fees assessed, from the date of notification from the Master Servicer, for the Lender to cure any exceptions. If the exception(s) remains outstanding beyond the three-week period, fees in an amount equal to .125% of the loan amount will accrue each week until the exception is cured. The purchase price of the loan at the time of purchase by the Master Servicer will be discounted in an amount equal to the accrued fees due.

## **6.08 Master Servicer Loan Purchase/Disbursement of Funds**

The Master Servicer will purchase and disburse funds for all loans that have closed, attained the Purchase Approval stage on Minnesota Housing's SF Web Application and meet Master Servicer purchase criteria.

## Chapter 7 – Documentation Requirements

### 7.01 Loan Processing and Closing

All loans submitted to Minnesota Housing for approval must meet the following requirements:

- Loans must be closed and disbursed prior to requesting Minnesota Housing loan Purchase Approval via the HDS SF Web Application.
- Lender must follow all mortgage industry regulatory and compliance provisions throughout the processing of the loan.
- All loan documents must be industry standard and meet the requirements of the Master Servicer, the underlying loan product and the insurer/guarantor, as applicable.
- All loan documents must be complete, accurate and reviewed by the Lender at the various and appropriate stages of the loan.
- For loans underwritten utilizing industry standard automated underwriting systems, Minnesota Housing requires full documentation when verifying income and assets to confirm Minnesota Housing eligibility.
- Minnesota Housing or industry-standard forms may not be altered in any way other than to add a company name and logo.
- The loan must be originated and closed in, or assigned to, the name of the Lender that is a party to the Participation Agreement and that has received an Individual Commitment of Funds from Minnesota Housing.
- All mortgage assignments must run directly from the Lender to the Master Servicer.
- Lender must submit final documents to the Master Servicer within 120 days of Master Servicer's loan purchase.

### 7.02 Minnesota Housing Documentation/Delivery Requirements

The Master Servicer provides the Delivery Checklist form detailing specific documentation/delivery requirements. Lender must fully execute and deliver documents within designated timeframes. In addition, Lenders must specifically warrant the following:

- Borrower Affidavit has been signed, and duly notarized, by each Borrower who signs the note and intends to reside in the property as their Principal Residence.
- Lender has obtained, and reviewed, applicable documentation to determine compliance with the certifications on the Borrower Affidavit as it pertains to the mortgage revenue bond First-Time Homebuyer requirements.

- Documentation includes, but is not limited to:
  - Signed Federal income tax returns (IRS Form 1040 and all its versions) for the preceding 3-year period; or,
  - The computer generated form for electronically filed returns showing the line numbers and all corresponding entries; or
  - A letter from the IRS indicating the type of tax return filed and the significant line entries from the return.
- Lender has obtained a signed, written explanation from any Borrower if there is any indication that the Borrower has had an ownership interest in a primary residence within the past three years. Any such interest must be documented and verified to provide reasonable assurance that there was no actual ownership in a primary residence.
- Property Seller Affidavit has been signed, and duly notarized, by those persons conveying the residence and/or land to the Borrower.
- Lender has reviewed any and all contracts in connection with the residence sale transaction to ensure total compliance with this manual.
- Subsidy Recapture Disclosure Statement has been completed and signed by each Borrower at closing.

Documentation not delivered to the Master Servicer within the specified time frames, may result, at Minnesota Housing's or the Master Servicer's discretion, in the Lender being required to repurchase the loan, or any other remedy as identified in this Procedural Manual. Minnesota Housing and/or the Master Servicer may also, at its discretion, extend the aforementioned timeframes.

### **7.03 Records Retention**

Lender must retain any and all compliance documents (including compliance with Minnesota Housing program guidelines) as may be required by the Lender's regulatory authority, the requirements of the underlying loan product and the requirements of the insurer/guarantor, as appropriate.

Loan product and insurer/guarantor minimum and/or alternative documentation requirements does not relieve the Lender from the responsibility of acquiring and maintaining complete files, including any and all documents and materials as would customarily be required for servicing and/or loan audit.

## Chapter 8 – Servicing

### 8.01 Servicing

Minnesota Housing may, at its discretion, subject to any contractual provisions between Minnesota Housing and the Master Servicer, change the Master Servicer.

### 8.02 Lender Servicing Responsibilities

Lender must complete the following loan servicing activities during the period from loan closing to Master Servicer purchase and subsequent to transfer of servicing.

- Collect and apply all payments made. All payments must be entered into the HDS SF Web Application.
- Payments must include:
  - Monthly loan principal and interest;
  - 1/12th of annual property tax;
  - Mortgage insurance, if applicable;
  - Flood insurance, if applicable;
  - Hazard insurance (escrows);
  - Assessments, if applicable;
- Maintain payment history indicating:
  - Breakdown of principal, interest and escrows;
  - Any principal repayments
  - Remaining principal balance of loan, and;
- Collect any past due payments.

### 8.03 Assumption/Due-On-Sale

A Minnesota Housing loan may be assumed only by persons who:

- At the time of the assumption, intend to occupy the property as their Principal Residence within 60 days of closing;
- Have not had an ownership interest in a Principal Residence (other than the property being purchased with the proceeds of the loan) during the three year period ending on the day the Borrower executed the loan application;
- Do not have gross household income that exceeds the current Minnesota Housing limits (see Federal Purchase Price Limits – Assumption on Minnesota Housing's Website); and

- Are not purchasing or acquiring the residence at an Acquisition Cost that exceeds the current Minnesota Housing limits (see Federal Purchase Price Limits – Assumption on Minnesota Housing’s Website).

Unless the loan is assumed in accordance with the above provisions, the loan is due upon sale or transfer of title.

#### **8.04 Hardship Policy – Homeownership Assistance Fund Loan**

Minnesota Housing has in place a hardship policy for its HAF loans that allows forgiveness either in part or whole if the Borrower is experiencing severe financial hardships that prevent him or her from paying back full indebtedness.

# Appendix

[Definitions](#)

[Forms List](#)

## Definitions

All terms used in the Procedural Manual use mortgage industry standard definitions except for the following:

| Term                                     | Definition  |
|--|---|
| Acquisition Cost                         | The cost of acquiring a completed residential unit (See section 3.04).  |
| Disabled Household Resident              | A Borrower, or household member, who has a permanent physical or mental condition, which substantially reduces the person's ability to function in a residential setting. If the disability does not require the use of a mobility device, the Borrower must provide a written licensed physician certification and description pertaining to the nature of the disability, or a Supplemental Security Income (SSI) award letter or Social Security Disability Insurance (SSDI) award letter. |
| First-Time Homebuyer                     | A Borrower who meets the requirements as stated in Section 2.05 of this Procedural Manual.  |
| High Need Zip Code                       | A zip code identified by Minnesota Housing which has been impacted by high rates of foreclosures, delinquencies, and unemployment.  |
| Household of Color or Hispanic Ethnicity | A household with at least one Borrower self-identified as belonging to at least one of the following Office of Management and Budget ethnic/racial categories: American Indian or Alaska Native, Asian, Black or African American, Hispanic or Latino Ethnicity; or Native Hawaiian or Pacific Islander.  |
| Individual Commitment                    | A specific legal commitment of funds with specific terms and conditions for use by a specific Borrower purchasing a specific property.  |

|   |  |
|---|--|
| Low-Income Census Tract                       | A census tract with a median family income of less than 50% of the broader area median family income. (See <a href="http://www.ffiec.gov/geocode/default.aspx">www.ffiec.gov/geocode/default.aspx</a> ).   |
| Master Servicer                               | The company selected by Minnesota Housing to be the Master Servicer for the Mortgage Revenue Bond Mortgage Backed Securities Program.  |
| Minnesota Housing Program Eligibility Income  | Income used to meet the requirements of this program procedural manual.  |
| MMP Spotlight Area                            | An area in either a High Need Zip Codes as identified by Minnesota Housing or a Low-Income Census Tract.   |
| New Construction/ Newly Constructed Residence | New construction or a newly constructed residence refers to a residence, which either has not been previously occupied or was completed within 24 months preceding the date of the home mortgage loan and was not subject to previous financing with a term greater than 24 months (i.e., a contract-for-deed, mortgage, or gap loan). |
| Personal Property                             | Property such as an appliance, a piece of furniture, a radio etc., which under applicable law is not a fixture.  |
| Principal Residence                           | A property used as the primary domicile of the owner-occupant Borrower and his/her household.  |
| Property Seller                               | The seller of the property under contract for sale to the borrower who is using Minnesota Housing financing.   |
| Qualified Homebuyer Training                  | Qualified Homebuyer Training is homebuyer training completed in a <b>classroom</b> setting by organizations that have had staff trained under HomeStretch or NeighborWorks America.  |
| Single Head of Household                      | A family with one adult householder, no spouse/partner in the household, and one or more dependents in the household.  |

## Forms List

Acquisition Cost Worksheet - optional  
Borrower Affidavit  
FHA Streamlined 203K Appliance Form<sup>3</sup>  
HAF Mortgage, if applicable  
HAF Note, if applicable  
Income Eligibility Calculation Worksheet - optional  
Mortgage Deed Amendment

- Conventional/RD;
- FHA; or,
- VA

Notice to Buyers FHA  
Notice to Veteran and Consent  
Property Seller Affidavit  
Subsidy Recapture Disclosure Statement

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<sup>3</sup> Applicable only for FHA Streamlined 203K loans